

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAPORTE )

IN THE LAPORTE SUPERIOR COURT  
CAUSE NO. 46D03-0711-MI-498

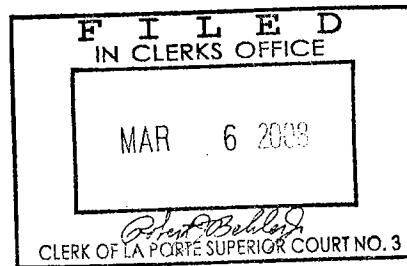
STATE OF INDIANA, )

Plaintiff, )

v. )

BILLY SMITH, individually and )  
doing business as SOUTH COUNTY )  
ENTERPRISES, )

Defendant. )



### CONSENT JUDGMENT

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General January Portteus, and the Defendant, Billy Smith, individually and doing business as South County Enterprises, hereby agree to entry of a Consent Judgment without trial or adjudication of any issue of fact or law herein.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana and avoid further litigation. This Consent Judgment does not constitute an admission by the Defendant of any wrongdoing, nor shall it be construed as abandonment by the Attorney General of his position the Defendant violated Indiana's Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-1 et seq. The parties consent to entry of a final judgment in this proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

## **JURISDICTION AND SCOPE OF JUDGMENT**

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.
2. The State of Indiana's Complaint for Injunction, Costs, and Civil Penalties states a cause of action pursuant to Indiana Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-1 et seq
3. The Defendant, Billy Smith, is an individual doing business as South County Enterprises, with a principal place of business at 1013 ½ Indiana Avenue, LaPorte, Indiana 46350.
4. The Defendant registered with the Consumer Protection Division, Office of the Attorney General as a professional fundraiser solicitor on or about March 20, 2006.
5. The Consumer Protection Division of the Office of the Attorney General ("Division") has jurisdiction to investigate the matter hereinafter described, pursuant to the authority of Ind. Code § 4-6-9-4 and Ind. Code § 23-7-8-8.
6. The terms of the Consent Judgment apply to and are binding upon the Defendant, his employees, agents, representatives, successors, and assigns.
7. Any term used in this Assurance that is explicitly defined by Ind. Code §23-7-8-1 or Ind. Code §24-5-0.5-2 has the meaning set forth by those statutes.

## **RELIEF ORDERED**

8. The Defendant is permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

9. In the course of conducting charitable fundraising activities in Indiana, the Defendant is permanently enjoined from the following:

- a. Failing to register with the Division before acting as a professional fundraiser consultant or professional solicitor in the State of Indiana on behalf of any charitable organization, pursuant to Ind. Code § 23-7-8-2(a);
- b. Failing to renew his fundraising registration before July 2 of each year pursuant to Ind. Code § 23-7-8-4(c);
- c. Failing to notify the Division in writing within 180 days of any change in the information contained in Defendant's registration;
- d. Failing to enter into a written contract, including each of the provisions required under Ind. Code § 23-7-8-2(d), and file it with the Division before acting as a professional solicitor or otherwise soliciting in the state of Indiana on behalf of any charitable organization;
- e. Failing to file a solicitation notice with the Division, including each of the items required by Ind. Code § 23-7-8-2(e), prior beginning a solicitation campaign in which Indiana residents are solicited;
- f. Failing to file a financial report with the Division, pursuant to Ind. Code § 23-7-8-2(f), not later than ninety (90) days after a solicitation campaign has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, containing the following information concerning the campaign:

- i. the total gross amount of money raised by Defendant and the charitable organization from donors;
  - ii. the total amount of money paid to or retained by Defendant;
  - iii. the total amount of money, excluding the amount identified in paragraph 7(f)(ii) above, paid by the charitable organization as expenses as part of the solicitation campaign; and,
  - iv. the total amount of money received by the charitable organization after deducting the amounts identified in paragraphs 7(f)(ii) and 7(f)(iii) above.
- g. Failing to keep accurate fiscal records regarding his fundraising activities in Indiana and failing to retain such records for at least three (3) years after the end of the period of registration to which they relate;
- h. Using the fact of registration as an endorsement by the State;
- i. Misrepresenting that Defendant is an officer or employee of a public safety agency;
- j. Using the name “police”, “law enforcement”, “trooper”, “rescue squad”, “firemen”, or “firefighter” in his solicitations unless a bona fide police, law enforcement, rescue squad, or fire department authorizes its use in writing;
- k. Misrepresenting to anyone that the contribution will be used for a charitable purpose if he has reason to believe the contribution will not be used for a charitable purpose;

- l. Misrepresenting to anyone that another person endorses the solicitation unless that person has consented in writing to the use of the person's name for the purpose of endorsing the solicitation;
- m. Misrepresenting to anyone that the contribution is solicited on behalf of anyone other than the charitable organization that authorized the solicitation;
- n. Failing to make the disclosures required by Ind. Code § 23-7-8-6 at the time of the solicitation and before the donor agrees to make a contribution; or
- o. Collecting or attempting to collect a contribution in person or by means of a courier unless:
  - i. the solicitation is made in person and the collection or attempt to collect is made at the time of the solicitation; or
  - ii. the contributor has agreed to purchase goods or items in connection with the solicitation, and the collection or attempt to collect is made at the time of delivery of the goods or items.

10. Upon execution of this Judgment, the Defendant shall pay the Office of the Attorney General costs for investigating and prosecuting Defendant's violations of the Professional Fundraiser Consultant and Solicitor Registration Act in the amount of Five Hundred Dollars (\$500.00), pursuant to Ind. Code §23-7-8-8(c).

11. Upon execution of this Judgment, the Defendant shall pay to the Office of Attorney General civil penalties in the amount of One Thousand Three Hundred Dollars

(\$1,300.00) for Defendant's violations of the Professional Fundraiser Consultant and Solicitor Registration Act, pursuant to Ind. Code § 23-7-8-8(c).

**CONTINUING JURISDICTION**

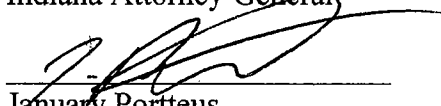
12. For the purpose of enforcing the provisions of this Consent Judgment, any subsequent Court that obtains jurisdiction over the Defendant based upon a complaint alleging a violation of any law that is the subject of this Consent Judgment may take judicial notice of this Judgment. The Defendant waives any objection regarding a Court's jurisdiction to punish for contempt and agrees to appear upon proper notice of a failure to comply with any of the provisions of this Judgment.

IN WITNESS WHEREOF, the parties have executed this Consent Judgment this

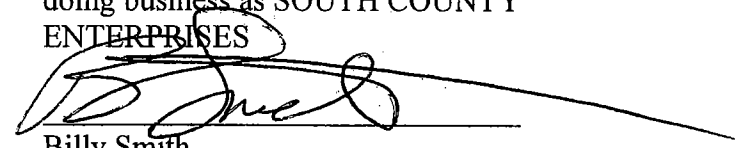
3<sup>RD</sup> day of March, 2008.

STATE OF INDIANA  
STEVE CARTER  
Indiana Attorney General

by:

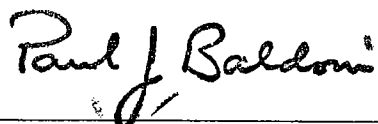
  
January Portteus  
Deputy Attorney General  
Attorney No. 25741-49

BILLY SMITH, individually and  
doing business as SOUTH COUNTY  
ENTERPRISES

  
Billy Smith

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED

this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

  
Paul J. Baldoni

Judge, LaPorte Superior Court

Distribution:

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Indianapolis, IN 46204

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